

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY ISLAMABAD IMMEDIATE

C O N F I D E N T I A L STATE 240876

E.O. 11652: GDS

TAGS: SHUM, MASS, PK

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: STATE 231122

1. SENATOR HUMPHREY AS CHAIRMAN OF THE FOREIGN ASSISTANCE SUBCOMMITTEE HAS ASKED THE DEPARTMENT TO PROVIDE THE SUBCOMMITTEE STAFF BASIC HUMAN RIGHTS DATA AND INFORMATION ON 17 COUNTRIES, INCLUDING PAKISTAN, ON A CONFIDENTIAL BASIS FOR THE STAFF'S USE IN PREPARING LEGISLATION. IN RESPONSE TO THIS REQUEST, THE SECRETARY HAS AUTHORIZED US TO PROVIDE THE SUBCOMMITTEE WITH THIS BASIC DATA AND INFORMATION USING AS A BASIS THEREFOR UPDATED DRAFTS OF HUMAN RIGHTS OBSERVANCE REPORTS ON THE 17 COUNTRIES WHICH THE DEPARTMENT HAS BEEN PREPARING FOR POSSIBLE SUBMISSION EARLY NEXT YEAR IN ACCORDANCE WITH SECTION 502B(B) OF THE FOREIGN
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ASSISTANCE ACT OF 1961, AS AMENDED BY THE INTERNATIONAL

SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976.
(THE TEXT AND A DISCUSSION OF THE RELEVANT LEGISLATIVE
PROVISIONS WERE TRANSMITTED BY REFTEL.) ALL INFORMATION
WILL BE PROVIDED ON A CLASSIFIED BASIS, AS SENATOR
HUMPHREY REQUESTED AND THE SECRETARY HAS DIRECTED, ALTHOUGH
PUBLIC DISCLOSURE CANNOT BE PRECLUDED.

2. WE HAVE INFORMED THE SUBCOMMITTEE THAT THE REQUESTED
INFORMATION IS BEING COLLECTED AND PREPARED FOR TURNOVER
IN TWO WEEKS, I.E., OCTOBER 8. ACCORDINGLY, CORRECTIONS,
UPDATING INFORMATION, COMMENTS AND EMBASSY CLEARANCE ON
THE LATEST, PARTIALLY CLEARED, DRAFT ON HUMAN RIGHTS
OBSERVANCE ON PAKISTAN, TRANSMITTED BELOW, ARE NEEDED
URGENTLY, BY COB WASHINGTON SEPTEMBER 30 LATEST, TO
ALLOW TIME FOR COMPLETION OF THE CLEARANCE PROCESS,
TYPING AND SUBMISSION TO CONGRESS BY THE DEADLINE
INDICATED.

3. TEXT OF DRAFT HUMAN RIGHTS REPORT FOR -- PAKISTAN
FOLLOWS. QUOTE:

4. POLITICAL SITUATION.

PAKISTAN IS A FEDERAL REPUBLIC WITH A PARLIAMENTARY SYSTEM
OF GOVERNMENT BASED ON THE CONSTITUTION OF 1973. PRIME
MINISTER BHUTTO IS THE LEADER OF THE PAKISTAN PEOPLES'
PARTY, THE LARGEST PARTY IN THE NATIONAL ASSEMBLY BASED
ON THE 1970 ELECTIONS IN WEST PAKISTAN. NEW ELECTIONS
ARE DUE BEFORE THE END OF AUGUST 1977.

THOUGH PAKISTAN IS STILL IN TRANSITION AFTER 14 YEARS OF
ARMY RULE AND A DISASTROUS CIVIL AND INTERNATIONAL WAR,
THE PRESENT GOVERNMENT IS THE MOST REPRESENTATIVE IN THE
NATION'S HISTORY. NEVERTHELESS, A STATE OF EMERGENCY WHICH
HAS BEEN IN EFFECT SINCE THE 1971 HOSTILITIES GIVES THE
EXECUTIVE WIDE POWERS, PARTICULARLY IN MATTERS CONSIDERED
TO INVOLVE SECURITY, PEACE AND THE INTEGRITY OF THE
COUNTRY. IN 1975, THE GOVERNMENT BANNED A LARGE OPPOSITION
PARTY, THE NATIONAL AWAMI PARTY, AFTER THE ASSASSINATION
OF A PROVINCIAL OFFICIAL. THE BAN HAS SINCE BEEN UPHELD
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BY THE SUPREME COURT.

5. LEGAL SITUATION

THE PAKISTANI CONSTITUTION OF 1973 PROVIDES A BROAD RANGE
OF RIGHTS FOR CITIZENS AND SOCIAL GROUPS IN PAKISTAN, AS
WELL AS BASIC GUIDING PRINCIPLES FOR THE STATE. THESE
RIGHTS OF CITIZENS AND RESPONSIBILITIES OF GOVERNMENT ARE

BASED ON SUCH DISPARATE SOURCES AS ISLAMIC LAW, TRIBAL TRADITION AND BRITISH COLONIAL CIVIL AND PENAL CODES. TO FILL IN THE LEGISLATIVE FRAMEWORK, THE COURTS CAN BE EFFECTIVE IN SAFEGUARDING CIVIL LIBERTIES.

THE CONSTITUTION EMPOWERS THE PRESIDENT TO PROCLAIM A STATE OF EMERGENCY IF HE IS SATISFIED THAT PAKISTAN'S SECURITY IS THREATENED BY WAR, EXTERNAL AGGRESSION OR

INTERNAL DISTURBANCE. THE PROCLAMATION IS SUBJECT TO RATIFICATION BY PARLIAMENT. DURING A STATE OF EMERGENCY, THE POWER OF THE EXECUTIVE IS INCREASED, PARLIAMENT MAY EXTEND ITS TERM OF OFFICE, AND CONSTITUTIONALLY GUARANTEED RIGHTS AND FREEDOMS ARE SUBJECT TO SUSPENSION, E.G., THE FREEDOMS OF MOVEMENT, ASSEMBLY, SPEECH AND EXPRESSION, THE RIGHTS TO OWN PROPERTY AND CONDUCT BUSINESS. IN ADDITION, EMERGENCY ORDERS ARE EXEMPTED FROM JUDICIAL REVIEW.

6. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: LIFE, LIBERTY AND SECURITY OF THE PERSON ARE PROTECTED BY THE PAKISTANI CONSTITUTION AND GENERALLY RESPECTED IN PRACTICE (EXCEPT IN CASES WHICH COME UNDER EMERGENCY PROVISIONS).

ARTICLE 5: TORTURE AND OTHER CRUEL TREATMENT ARE FORBIDDEN BY LAW. THE ROUGH TREATMENT WHICH THE POLICE SOMETIMES METE OUT TO POOR SUSPECTS IN CRIMINAL CASES REFLECTS TRADITIONAL ATTITUDES TOWARD CERTAIN CLASSES IN SOCIETY. THERE HAS BEEN NO PATTERN OF ABUSE DIRECTED AT CONFIDENTIAL

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SUSPECTS IN NATIONAL SECURITY OR OTHER POLITICAL CASES. THEIR CONDITIONS OF INCARCERATION ARE OFTEN QUITE COMFORTABLE.

ARTICLE 8: PAKISTANIS HAVE THE LEGAL RIGHT TO REMEDY IN THE COURTS FOR ACTIONS VIOLATING THEIR RIGHTS. IN PRACTICE, THE EFFECTIVE EXERCISE OF THIS RIGHT IN CIVIL AND CRIMINAL CASES IN PART DEPENDS ON THE PETITIONER'S SOCIAL STANDING. THE RIGHT CANNOT BE EFFECTIVELY EXERCISED IN SOME POLITICAL CASES.

ARTICLE 10: A HEARING TO DETERMINE CHARGES AND RIGHTS IS GUARANTEED BY THE CONSTITUTION EXCEPT IN PREVENTIVE DETENTION CASES.

ARTICLE 11: THE RIGHT TO A FAIR TRIAL IS PROVIDED FOR IN LAW. THE RIGHT TO BE PRESUMED INNOCENT IS ALSO RESPECTED EXCEPT IN CASES INVOLVING SUSPECTED SABOTAGE OR NATIONAL SECURITY, WHERE THE ACCUSED MUST PROVE HIS INNOCENCE IF THE GOVERNMENT OPPOSES BAIL. THE MANIPULATION OF THE JUDICIAL PROCESS FOR POLITICAL ENDS IN AN ACCEPTED FACT IN PAKISTAN.

B. OTHER IMPORTANT FREEDOMS

THE PAKISTAN CONSTITUTION PROHIBITS VARIOUS FORMS OF DISCRIMINATION AND THESE PROHIBITIONS ARE WIDELY RESPECTED. A 1974 CONSTITUTIONAL AMENDMENT WHICH ESTABLISHED THE HETERODOX AHMEDIYA RELIGIOUS SECT AS A NON-MUSLIM MINORITY RATHER THAN A COMPONENT OF THE MUSLIM MAJORITY HAS BEEN DISPUTED BY THE AHMADIYAS, WHO CHARGED THAT MINORITY STATUS ABRIDGES THEIR PREVIOUS RIGHTS. IN FACT, THE CONSTITUTION GUARANTEES ENNUMERATED RIGHTS TO RELIGIOUS MINORITIES, WHO ALSO ARE GRANTED RESERVED SEATS IN THE LEGISLATURES AND IN EDUCATIONAL INSTITUTIONS. THE ONLY OFFICES RESERVED FOR MUSLIMS IN THE ISLAMIC REPUBLIC ARE THOSE OF PRESIDENT AND PRIME MINISTER.

WHILE THERE IS GENERAL FREEDOM OF MOVEMENT IN PAKISTAN, OCCASIONAL BANS HAVE BEEN IMPOSED ON THE TRAVEL OF OPPOSITION POLITICIANS TO CERTAIN CITIES, UNDER A CONSTI-
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TUTIONAL PROVISION PERMITTING THE IMPOSITION OF ANY REASONABLE RESTRICTIONS IN THE PUBLIC INTEREST.

PROPERTY RIGHTS ARE PROTECTED BY LAW AND RESPECTED IN PRACTICE.

IN GENERAL, THE PRACTICE OF RELIGION IS FREE.

GUARANTEES OFFREEDOM OF SPEECH AND EXPRESSION ARE SUBJECT TO LIMITATIONS TO PROTECT SECURITY, PUBLIC ORDER AND DECENCY, AND FRIENDLY RELATIONS WITH FOREIGN STATES. A SIMILAR PROVISION CAN BE INVOKED TO RESTRICT THE NUMBER OF PERSONS EXERCISING THE RIGHT OF FREE ASSEMBLY, AND THE PROVISION HAS BEEN USED TO LIMIT THE SIZE OF OPPOSITION POLITICAL MEETINGS.

7. OTHER HUMAN RIGHTS REPORTING

AMNESTY INTERNATIONAL'S 1974-75 ANNUAL REPORT DISCUSSED INTERNAL TENSIONS RESULTING FROM DEMANDS FOR GREATER AUTONOMY IN BALUCHISTAN AND THE NORTH WEST FRONTIER PROVINCE, AND THE POSSIBLE ABUSE OF POLICE POWERS. AN

AMNESTY LIST OF MEMBERS OF THE LEGAL PROFESSION WORLDWIDE, WHOSE IMPRISONMENT WAS CONSIDERED TO RAISE HUMAN RIGHTS CONCERNS, INCLUDED TWO PAKISTANIS WHO HAVE REPORTEDLY BEEN RELEASED AND ARE BACK IN LAW PRACTICE. THE APRIL 1975 AMNESTY INTERNATIONAL NEWSLETTER EXPRESSED CONCERN ABOUT THE BAN OF THE NATIONAL AWAMI PARTY AND ADOPTED A FORMER GOVERNMENT MINISTER IMPRISONED UNDER SECURITY PROVISIONS AS A "PRISONER OF THE MONTH". AMNESTY'S 1974

REPORT ON TORTURE CONTAINS NO CURRENT ALLEGATIONS OF TORTURE BUT REFERENCE WAS MADE TO EVIDENCE CONNECTED WITH CIVIL WAR BETWEEN EAST AND WEST PAKISTAN.

FREEDOM HOUSE DESCRIBED PAKISTAN AS "PARTLY FREE".
UNQUOTE. KISSINGER

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